

INSTITUTE FOR FISHERIES RESEARCH
UNIVERSITY MUSEUMS
UNIVERSITY OF MICHIGAN
ANN ARBOR, MICHIGAN

July 29, 1933

Report 223

MEMORANDUM REGARDING LAKE AND STREAM IMPROVEMENT WORK BY THE C.C.C. IN
MICHIGAN

In response to a number of inquiries from several states regarding the use of Citizen's Conservation Corps in work to improve fishing conditions in Michigan lakes and streams, we have drawn up the following statement as to the current status of this work in our state. Mr. P. S. Lovejoy, Technical Coordinator for the Michigan Department of Conservation, has been consulted in the preparation of this statement.

All of the lakes and streams on which such work is now actually underway in Michigan are publicly owned. On such lakes the state may own only a portion of the shore-line, but that is considered by Michigan court decisions to fix public fishing rights over all the surface of such a lake, and this is in turn interpreted as sufficient to permit improvement work to be done by the C.C.C.

On the streams selected to date, with two exceptions mentioned below, the work is planned only along state-owned frontage (Michigan has as yet no leasing system).

It soon became obvious in planning the Emergency Conservation Work in Michigan, that suitable state or federal-owned lakes and streams furnished an inadequate number of projects for the improvement work. It appeared that the work would have to be greatly restricted, unless it could be expanded to waters regarded as open to public fishing, though bounded by private riparian holdings. It should be made clear in this connection that a Michigan Supreme Court decision has held that the public has the right of fishing in "navigable" streams, and that for such purposes "navigability" is defined as "streams which

have been driven for logging or are capable of supporting such use". In various particulars, this decision is not as clear as desirable, and cases are now pending which promise to result in further clarification of our public water situation. But in the meantime the existing decision seems to be considered by our Department of Conservation as fully adequate to justify C.C.C. improvement work in such waters, though in actual current practice the riparian owners are expected to cooperate by signing petitions requesting such work. If you are interested, copies of the petitions in present use may no doubt be secured from our Department of Conservation.

Recently, two such stream projects have been officially approved by the Regional Forester, for controlling serious erosion and improving the fishing conditions on sections of two of our larger trout streams. In approving these projects, provision has been made for supplying local (i.e. State) supervision and most of the equipment and supplies, in part at E.C.W. expense. In both instances, the riparian owners have requested that such work be done, and have consented to the use of their lands by the C.C.C. crews and to the reasonable use by these crews of construction materials on their lands (logs, stakes, gravel, stumps, etc.). While no specific written acknowledgement from such riparian owners that such waters are public has been asked, this is implied by the wording of the petition, and the Department seems to consider the Supreme Court decision ^A cited as adequate to settle that point for the type of waters from which the petitions are being received.

It is our understanding that President Roosevelt has ruled that the C.C.C. may be used on private property, if the work will result in obvious public benefits; for instance, in the removal of slash to prevent fires which might spread to other properties. Michigan has assumed that this ruling is being interpreted rather liberally, when there is good showing of such public benefits to result.

Some variation in the interpretation of the President's ruling in different sections of the country may be expected, since some of the officials administering

the E.C.W. have had little or no first-hand contact with the new lake and stream improvement work.

Since Michigan has no officially leased waters, the question of whether such leasing would be interpreted as adequate basis for the use of the C.C.C. on such waters has not come up in this state. The period of the lease and assured resulting public benefits would no doubt need consideration.

It is unfortunate from the viewpoint of fish and game administrators that fish and game interests were not specifically mentioned in the Act creating the Conservation Corps. Erosion and flood control, reforestation, road and path construction, etc., were, so we are emphasizing in our proposed projects that the lake and stream improvement work normally involves these standard items to a considerable degree.

We have had direct and indirect assurances however, that Forest Service headquarters in Washington would approve of acceptable lake and stream improvement projects, only when these would call for the services of a small proportion of the men in any given C.C.C. camp. It is our understanding that if larger scale projects should be submitted, involving a large percentage of the work of a camp, not only would our Regional Forester consider it necessary to submit the question to Forest headquarters in Washington, but further the U. S. Forester would probably feel obliged to refer the question to Mr. Fechner or the President. What decision would follow we do not know, and we have rather taken pains to avoid raising the issue, by keeping water improvement projects relatively small, though fairly numerous.

It is interesting to know that small C.C.C. crews are now being used at several of the Michigan fish hatcheries and rearing stations, improving the road, grounds, ponds, etc.

I hope this information will be of interest or use to those who have inquired regarding the use of the C.C.C. in lake and stream improvement in Michigan. If further details are desired, we suggest you address Mr. L. R. Schoenmann, Coordinator

of the Michigan Emergency Conservation Work or Mr. F. A. Westerman, head of the Fish Division,—both of the Department of Conservation, Lansing, Michigan.

Inasmuch as few definite policies in regard to fish and game work by the C.C.C. have been adopted, it might be well to regard the information of this letter as unofficial and more or less confidential. We feel confident that if fully understood this water work would receive hearty official indorsement, but with such great pressure and so many difficult questions involved, we have rather feared that a partial understanding, or misunderstanding might result in hasty or ill-considered decisions which might seriously "queer" the work before it has had a chance to demonstrate for itself. So please be cautious and discreet in any use made of this report.

INSTITUTE FOR FISHERIES RESEARCH

Carl L. Hubbs

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Director

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AUG 5 1933

DEPARTMENT OF CONSERVATION
GOVERNMENT BUILDING

August 4, 1933

FISH DIVISION

SUPPLEMENTARY STATEMENT TO REPORT NO. 223

The following copy of a letter dated July 21, from Assistant Forester Fred Maxwell, and addressed to Director Hogarth, of the Michigan Department of Conservation, reports the formal approval by Mr. Fechner's office of the water-improvement plans as submitted by Michigan, and notes that "a number of other States will be glad to incorporate such work in their programs", since the Michigan plans are approved.

Various of the statements in our recent communication should be read in the light of this new Washington letter, which was received in Lansing after we had mailed you a copy of "Institute Report No. 223".

Supervision

Washington
July 21, 1933

Mr. George N. Hogarth, Director
Lansing, Michigan

Dear Mr. Hogarth:

The following memorandum, addressed to Mr. Fechner and bearing Mr. McIntee's approval, constitutes approval of a general kind of work discussed:

July 10, 1933

MEMORANDUM FOR MR. FECHNER

Dear Mr. Fechner:

The Michigan Department of Conservation has very urgently asked for approval of a plan to provide better public fishing in the waters of the State through improvement of streams by the placing of small rock or log dams in such manner as will result in the establishment of pools where, on account of the slow movement of water and the elimination of silt and debris, the rearing of fish is greatly facilitated.

Regional Forester Timber estimates that if work of this nature should be approved, the State's plan will call for the expenditure of not to exceed \$3,000 for materials and for approximately 500 man-months of work.

This constitutes a class of work not previously submitted for approval. In no case would it involve more than a small percentage of time of the men in any

one camp. It would doubtless have some small effect as to flood control and erosion. It is a class of work to which Emergency Conservation Work crews are well adapted and one which would result in large public benefits for the expenditures made. If approved as to Michigan, a number of other States would, I am sure, be glad to incorporate it in their programs. I, therefore, recommend that you give your approval to the plan.

Sincerely yours,

Approved: J. J. McEntee
Asst. Director
R.C.W.
July 14, 1933

(signed) C. M. Granger
Acting Forester

It is, of course, not anticipated that any camps will be installed for the express purpose of doing such work, and the work should not be undertaken except under supervision of men competent in this field. The memorandum, however, constitutes approval of a line of work additional to those listed in Major Stuart's letter of May 13.

Very sincerely yours,

(signed) FRED KENNEL
Assistant Forester

INSTITUTE FOR FISHING RESEARCH

Carl L. Hubbs
Director